

TTAB

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of: Application Serial No. 76/181,351
Published in the Official Gazette on: October 8, 2002

3438-294

AMERSHAM BIOSCIENCES AB

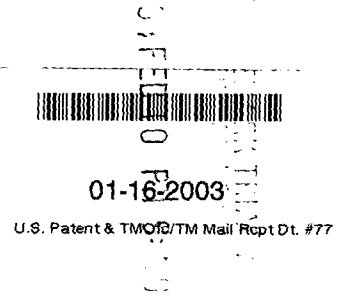
Opposer,

v.

UpFront Chromatography A/S
Applicant.

Opposition No. _____

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202



NOTICE OF OPPOSITION

Amersham Biosciences AB, a Swedish corporation, of Bjorkgatan 30, SE-751 84 Uppsala, Sweden, believes that it will be damaged by the registration of the mark XPRESSLINE in Application Serial No. 76/181,351, and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Application Serial No. 76/181,351 was filed on December 15, 2000 based on intent-to-use and the priority of a corresponding application in Denmark filed on June 21, 2000 for the following goods:

CHEMICALS FOR USE IN INDUSTRY AND SCIENCE,
NAMELY, SOLID PHASE MATRICES FOR SEPARATION
AND IMMOBILIZATION OF PROTEINS AND ENZYMES;
CHEMICAL SUBSTANCES FOR PRESERVING FOODSTUFFS

02/05/2003 TSMITH 00000188 76181351 in International Class 1;

01 FC:6402

900.00 OP

CHROMATOGRAPHY APPARATUS FOR LABORATORY
USE, NAMELY, CHROMATOGRAPHY COLUMNS FOR
PURIFICATION OF BIOLOGICAL MATERIAL, INCLUDING
PROTEINS AND ENZYMES in International Class 9; and

CHROMATOGRAPHY APPARATUS FOR INDUSTRIAL USE,
NAMELY, CHROMATOGRAPHY COLUMNS FOR PURIFICATION
OF BIOLOGICAL MATERIAL, INCLUDING PROTEINS AND
ENZYMES in International Class 11.

2. On information and belief, Applicant has not used the mark XPRESSLINE on or in connection with any of the goods in Classes 1, 9 and 11 in Application Serial No. 76/181,351 in commerce with the United States prior to the filing date of June 21, 2000 of the Danish priority application.

3. Opposer and its predecessor in interest have used the mark XPRESS continuously from at least as early as 1994 to the present on and in connection with cross-flow filtration systems for the production of biopharmaceuticals which can be used before or with chromatography systems.

4. Opposer has filed Application Serial No. 76/477,113 on December 19, 2002 to register the mark XPRESS based on use in commerce since 1994 and Priority

Application No. 2,309,396 filed in the United Kingdom on August 30, 2002 for the following goods:

CROSS-FLOW FILTRATION SYSTEM FOR PRODUCTION
OF BIOPHARMACEUTICALS in Class 9.

5. By virtue of the marketing and sale by Opposer and its predecessor in interest of filtration systems and related products under the mark XPRESS, such products have acquired a favorable reputation reflected in a substantial amount of goodwill which will be severely impaired by the registration of the very similar mark XPRESSLINE to Applicant for chromatography chemicals and apparatus.

6. Applicant's mark XPRESSLINE is so similar to Opposer's mark XPRESS when used on closely related goods, namely, filtration and chromatography chemicals and apparatus, as to be very likely to cause confusion, mistake or lead to deception as to the source or origin of Applicant's goods when sold under its XPRESSLINE mark.

7. The chromatography chemicals and apparatus on which Applicant's mark XPRESSLINE is intended to be used, and the filtration systems on which Opposer's mark XPRESS is used are closely related products which are sold, distributed and advertised through the same channels of trade and to the same classes of purchasers. Accordingly, confusion, mistake or deception are most likely, and many persons familiar with Opposer's mark XPRESS are likely to buy Applicant's products under the mark XPRESSLINE in the belief that the latter are products sold or authorized by Opposer.

8. By the grant of a registration for the mark XPRESSLINE, Applicant will obtain at least *prime facie* the exclusive right to use this mark on chromatography chemicals and apparatus. Such registration will be a source of damage and injury to Opposer and to its customers who have traded with Opposer and its predecessor in interest based on reliance on the XPRESS mark.

Opposer has filed three thirty-day requests for extension of time to February 6, 2003 for the filing of this Notice of Opposition.

A duplicate copy of this Notice of Opposition is filed herewith, along with a check for the opposition fee of \$900.00 (3 classes).

WHEREFORE, Opposer prays that this opposition be sustained and that registration of the mark XPRESSLINE in Application Serial No. 76/181,351 be refused to Applicant.

Respectfully submitted,

NIXON & VANDERHYE P.C.

January 16, 2003

By: _____



Frank P. Presta
Attorney for Opposer

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01-16-2003

U.S. Patent & TMO/tc/TM Mail Rcpt Dt. #77

Our Account No. 14-1140

Our Order 3438-294

No.

In Re Application No.: 76/181,351

Filed: October 8, 2002

For the Mark: XPRESS ✓

Date: January 16, 2003

Honorable Commissioner of Patents and
Trademarks
Washington, DC 20231

Sir:

The document indicated below is attached for filing and is incorporated by reference. Fees are attached as calculated below:

<input checked="" type="checkbox"/>	NOTICE OF OPPOSITION in 3 class(es) (\$ 300.00 per class)	\$ 900.00
<input type="checkbox"/>	PETITION FOR CANCELLATION in 0 class(es) (\$ 300.00 per class)	\$ 0.00

TOTAL FEE ENCLOSED \$ 900.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this form) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.
By Atty: Frank P. Presta

Signature: Frank P. Presta